

GIOVANNI BUTTARELLI  
ASSISTANT SUPERVISOR

Mr Herwig KAISER  
Director DG for Personnel  
Plateau de Kirschberg  
European Parliament  
B.P. 1601 L-2929 Luxembourg

Brussels, 17 July 2014  
**GB/XK/mk D(2014)1545 C2013-0608**  
Please use [edps@edps.europa.eu](mailto:edps@edps.europa.eu) for all  
correspondence

**Subject: Notification on the selection and recruitment procedure for contract staff  
with a disability, case 2013-0608**

Dear Mr Kaiser,

We have analysed the ex-post notification you have provided to the EDPS for prior-checking under Article 27(2)(a) of Regulation 45/2001 ("the Regulation") on the processing of personal data of applicants for the specific action programme launched by the European Parliament ("the Parliament") on the employment of disabled contractual agents.

According to a note attached to the notification entitled "*new recruitment procedure for a contract staff with a disability*", the Equality and Diversity Unit asks the candidates chosen by the Recruitment and Transfers Unit to send a Reasonable Accommodation form, a medical diagnosis in a sealed envelope and its summary in French and English as well as a proof of disability (medical certificate/national disability card)<sup>1</sup>. The Equality and Diversity Unit organises a meeting with all services, involving an HR official of the DG concerned, to assess whether the reasonable accommodation request from the candidates is feasible. Subject to positive disability assessment, the Recruitment and Transfers Unit sends to the chosen candidates an invitation for a medical examination with a conditional job offer. During the medical examination prior to recruitment, the medical service of the Parliament will also assess if the candidates have a disability according to the definition of the UN Convention and therefore whether they are able to participate and benefit from the specific recruitment programme.

The EDPS notes that the selection and recruitment of contractual agents has already been subject to prior checking<sup>2</sup>.

Considering that the EDPS Guidelines on the processing operations in the field of staff recruitment ("the Guidelines") raise the issue of the processing of health data, the present notification will be analysed in light of these Guidelines. The EDPS will therefore only identify Parliament's practices which do not seem to be in conformity with the principles of the

---

<sup>1</sup> The proof of disability and the form on Reasonable Accommodation are disclosed to the Equality and Diversity Unit; the diagnosis and its summary in a sealed envelope are disclosed to the medical service of the Parliament; the form on Reasonable Accommodation is disclosed to the Committee on Reasonable Accommodation.

<sup>2</sup> EDPS Opinion of 13 March 2008, case 2007-0384.

Regulation and the EDPS Guidelines, and then provide Parliament with relevant recommendations.

### **1) Retention period**

As to the anonymisation of data regarding application and reasonable accommodation forms for statistical purposes, the Parliament should erase all contact and administrative details of candidates that may lead to the identification of the person either directly or indirectly within the meaning of Article 2(a) of the Regulation.

### **2) Information to be given to the data subject**

The EDPS recommends that the privacy statement provide a direct link to the note on the "*new recruitment procedure for a contract staff with a disability*" and both documents should be published on the Parliament's website as soon as possible, so that the Parliament can guarantee to all data subjects a fair and transparent processing in respect of the processing of their personal data, in accordance with Articles 11 and 12 of the Regulation.

### **Rights of access and rectification**

On the basis of Articles 11(1)(e) and 12(1)(e) of the Regulation, the Parliament should add to the privacy statement some necessary information so that data subjects fully understand their rights.

As to the right of access, the Parliament should mention that data subjects can have access to the assessment of their disability, at all stages of the procedure, by the different evaluators mentioned above. Such access should mean neither the disclosure of comparative data concerning other applicants nor of the individual opinions of the evaluators if this would undermine their rights and freedoms (Article 20.1.c).

As to the right of rectification, the Parliament should make clear to data subjects that, before the closing date of submitting applications, the applicants can add opinions of other doctors to ensure accuracy and completeness of their admissibility file (right of rectification).

The Parliament should revise accordingly both the notification and the privacy statement.

### **3) Security**

Due to the sensitive nature of such data, the EDPS recommends that, the officers of DG PERS of the processing as well as all different evaluators involved (as described above) sign confidentiality declarations mentioning that they are subject to an obligation of professional secrecy equivalent to that of a health professional. This organisational measure aims at maintaining the confidentiality of personal data and at preventing any unauthorised access to them within the meaning of Article 22 of the Regulation.

In the context of the follow-up procedure, please send to the EDPS a revised version of the notification and privacy statement as well as a copy of the confidentiality declaration within a period of 3 months, to demonstrate that the Parliament has implemented the above EDPS recommendations.

Yours sincerely,

**(signed)**

Giovanni BUTTARELLI

Cc: Mr Secondo SABBIONI, Data Protection Officer